IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 377 OF 2006

Sebastian Bastio Joseph Creado
and anr. ...Petitioners
vs.
State of Maharashtra and Ors. ....Respondents

Shashipal Shankar for the petitioner
Geeta Shastri, AGP for the respondents.

CORAM: S.U. KAMDAR, J.
DATED: 20TH MARCH,2006.

P.C. :

1. The petitioner in the present case is challenging the order passed by the Upper Commissioner, Konkan Division dated 15.4.2005 rejecting the Revision Application of the petitioner herein.

2. In the present case the petitioner is claiming that he was in possession of the government land since 1974 and thus by adverse possession of last 30 years has become the owner thereof. The lower authorities have given a finding that the petitioner was in possession of only one hutment. However he has encroached upon the additional three hutment on government land and now claiming possession of the 30,000 sq.ft of land belonging to the government. In

my opinion no case of adverse possession has been made out. The law is well settled that for the purpose of claiming adverse possession mere possession is not sufficient but the party must also show that he was in hostile possession and has taken steps as if he is the owner of the said property. There is no evidence of any nature whatsoever produced before this court or the authorities below that the petitioner has been acting as a owner or having hostile possession to the title of the government. In my opinion no case is made out under Article 226 of the Constitution of India. Petition fails and thus dismissed.

sd/-

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